

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of	)	
	)	
MTS PRODUCTS, INC.,	)	CPSC DOCKET NO. .02-C0002
	)	
a corporation .	)	
	)	
	)	

SETTLEMENT AGREEMENT AND ORDER

1. This Settlement Agreement and Order, entered into between MTS Products, Inc. (hereinafter, "MTS" or "Respondent"), a corporation, and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), pursuant to the procedures set forth in 16 C.F.R. § 1118.20, is a compromise resolution of the matter described herein, without a hearing or a determination of issues of law and fact.

I. THE PARTIES

2. The "staff" is the staff of the Consumer Product Safety Commission (hereinafter, "Commission"), an independent federal regulatory commission of the United States government established pursuant to section 4 of the Consumer Product Safety Act (CPSA), as amended, 15 U.S.C. § 2053.

3. Respondent MTS Products, Inc. is a corporation organized and existing under the laws of the State of California. Its office is located at 19401 Business Center Drive, Northridge, CA 91324. Respondent is a manufacturer and wholesaler of general merchandise including juvenile products.

## II. ALLEGATIONS OF THE STAFF

4. In March 1996, MTS manufactured and distributed in commerce 18,200 J. Mason Infant Carriers (hereinafter, "Infant Carrier"), Model Number I2502, "Squiggles," Model Number I2505, "Aurora Dreams," and Model No. I2506, "Aurora Dreams With Canopy." MTS is, therefore, a "manufacturer" of a "consumer product" "distributed in commerce" as those terms are defined in sections 3(a)(1), (4), and (11) of the Consumer Product Safety Act (CPSA), 15 U.S.C. §§ 2052(a)(1), (4), and (11).

5. Between June 6, 1996 and February 24, 1997, MTS received seven reports of the Infant Carrier's carrying handle breaking during use, allowing babies to fall to the ground or the floor. Several babies sustained bruises, cuts, and abrasions to the face. MTS did not report this information to the Commission.

6. MTS had sufficient information to conclude that the Infant Carriers contained a defect which could create a substantial product hazard, but failed to report such information as required by section 15(b) of the CPSA, 15 U.S.C. § 2064(b). A failure to report under section 15(b) is a prohibited act under section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4). By knowingly failing to report, MTS subjected itself to civil penalties under section 20 of the CPSA, 15 U.S.C. § 2069.

## III. RESPONSE OF MTS

7. Respondent denies the staff's allegations set forth in paragraphs 4 through 6 above.

8. Respondent denies that the Infant Carrier contains a defect which could create a substantial product hazard under section 15(a) of the CPSA, 15 U.S.C. § 2064(a).

9. Respondent denies that it knowingly violated the reporting requirement of section 15(b) of the CPSA, 15 U.S.C. § 2064(b) pursuant to section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4).

10. Respondent contends that its contractor had used re-grind plastic material to complete a production run one day in March 1996. This material was not in accordance with Respondent's specifications for its Infant Carriers. It appears that a minimum of 100 Infant Carriers may have been affected. Because Respondent did not date code its Infant Carriers, Respondent recalled all Infant Carriers manufactured in March 1996. The total number of Infant Carriers recalled was 18,200.

#### IV. AGREEMENT OF THE PARTIES

11. The Commission has jurisdiction over Respondent and the subject matter of this Settlement Agreement and Order under the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2051 et seq.

12. This Agreement is entered into for settlement purposes only and does not constitute an admission by Respondent or a determination by the Commission that Respondent knowingly violated the CPSA's Reporting Requirement.

13. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the Federal Register in accordance with

the procedures set forth in 16 C.F.R. § 1118.20(f). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed to be finally accepted on the 16<sup>th</sup> day after the date it is published in the Federal Register.

14. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, Respondent knowingly, voluntarily, and completely waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Respondent failed to comply with the CPSA, as alleged, (4) to a statement of findings of facts or conclusions of law, and (5) to any claims under the Equal Access to Justice Act.

15. In settlement of the staff's allegations, Respondent agrees to pay a \$75,000.00 civil penalty as set forth in the incorporated Order.

16. The Commission may publicize the terms of the Settlement Agreement and Order.

17. Upon final acceptance by the Commission of this Settlement Agreement and Order, the Commission shall issue the attached Order incorporated herein by reference.

18. Agreements, understandings, representations, or interpretations made outside this Settlement Agreement and Order may not be used to vary or contradict its terms.

19. The provisions of this Settlement Agreement and Order shall apply to Respondent and each of its successors and assigns.

RESPONDENT MTS PRODUCTS, INC.

DATED: 12.18.00



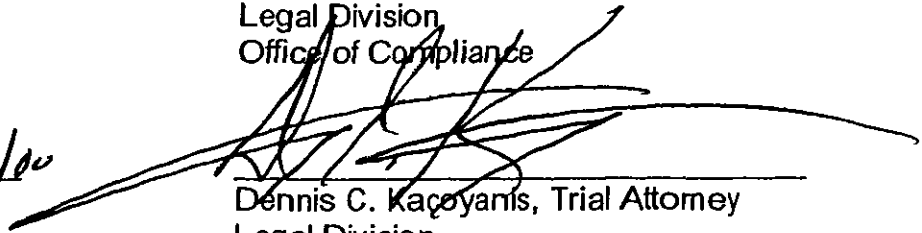
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DATED: 12/21/00



Dennis C. Kacoyanis, Trial Attorney  
Legal Division  
Office of Compliance

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ORDER

Upon consideration of the Settlement Agreement entered into between Respondent MTS Products, Inc. (hereinafter, "Respondent"), a corporation, and the staff of the Consumer Product Safety Commission ("Commission"); and the Commission having jurisdiction over the subject matter and Respondent; and it appearing that the Settlement Agreement and Order is in the public interest, IT IS

ORDERED, that the Settlement Agreement be and hereby is accepted, and it is

FURTHER ORDERED, that upon final acceptance of the Settlement Agreement and Order, Respondent MTS Products, Inc. shall pay to the United States Treasury a civil penalty in the amount of SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$75,000.00) in two (2) installments each. The first payment of THIRTY-SEVEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$37,500.00) shall be paid within twenty (20) days after service of the Final Order of the Commission (hereinafter, "anniversary date"). The second payment of THIRYT-SEVEN THOUSAND FIVE HUNDRED AND 00/100

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DOLLARS (\$37,500.00) shall be paid within one (1) year of the anniversary date.

Upon the failure of Respondent MTS Products, Inc. to make a payment or upon the making of a late payment by Respondent MTS Products, Inc. (a) the entire amount of the civil penalty shall be due and payable, and (b) interest on the outstanding balance shall accrue and be paid at the federal legal rate of interest under the provisions of 28 U.S.C. §§ 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 3rd day of December, 2001.

BY ORDER OF THE COMMISSION



TODD A. STEVENSON, SECRETARY  
Consumer Product Safety Commission